

**MINNESOTA BOARD OF MEDICAL PRACTICE  
BOARD MEETING  
2829 UNIVERSITY AVE. SE  
MINNEAPOLIS, MN 55414-3246**

**JANUARY 13, 2007**

The Minnesota Board of Medical Practice met on its regularly scheduled meeting date, January 13, 2007, at its offices in Minneapolis, Minnesota.

The following Board members were present for both Public and Executive Sessions, unless otherwise indicated: Jon Thomas, M.D, MBA, President, Carl Smith, M.D., Vice President, Steven Altchuler, Ph.D., M.D., Alfred Anderson, M.D., D.C., Robert Brown, Ph.D., Jack Geller, Ph.D., Rebecca Hafner, M.D. MBA, Bradley Johnson, M.D., Kelli Johnson, Ernest Lampe, II, M.D., James Langland, M.D., James Mona, D.O., Allen Rasmussen,

**PUBLIC SESSION**

Roll call was recorded by Robert Leach, Executive Director.

The minutes of the November 11, 2006, Board meeting were received and approved as circulated with revisions by Steven Altchuler, Ph.D., M.D., that had been distributed prior to the Board meeting.

Jon Thomas, M.D., MBA, Board President, presented a Board Service Plaque to Gloria Perez-Jordan. Ms. Perez-Jordan served on the Board from 2000 to 2006. During her Board service, Ms. Perez-Jordan served on the Board's Licensure and Public Policy Committees. Dr. Thomas presented a Board Service Plaque to Clyde Olson, MD. Dr. Olson served as the Board's Psychiatric Medical Coordinator from 1994 to 2006.

Jack Davies, MD, CEO of the Hennepin County Medical Society, gave a brief presentation on the Community Internship Program which is sponsored by the Hennepin and Ramsey Medical Societies.

Dr. Davies stated that the program was established mainly to connect decision makers within the community to the medical delivery system. The program is conducted over a two or three day period where each participant is assigned to four physicians, one from surgery, one from emergency medicine, and two from other specialties; one-half day is spent with each physician.

Dr. Davies invited public members of the Board and any Board staff member that feels they would benefit from the program to participate. Dr. Davies stated that there isn't a

cost for the program and that it is not offered to the general public. Dr. Davies distributed a brochure that summarized the program and also an article that was written by one of the program's former participants.

Mr. Leach and Mr. Auld, who had previously participated in this program, commented that they both gained a greater insight into the practice of medicine from participating in this program.

Mr. Leach stated the next agenda item for discussion is Board Member Professional Development which was brought forth in the Strategic Planning meeting where Board members expressed a desire for more opportunities for professional Board member development.

Mr. Leach asked Board members for ideas on the kind of opportunities they would like to see presented at the Board meeting as an educational component. Mr. Leach informed the Board that the presentation by the Wisconsin Physician Evaluation Program, which is an education component for the Board, has been rescheduled for the March 10, 2007 Board meeting.

Dr. Hafner stated her concern that the Federation of State Medical Boards (FSMB) is moving away from their regional meetings to all on-line meetings. Dr. Hafner felt it was disruptive to attend a web based educational conference during a weekday. Dr. Hafner felt that there is value in getting away for a day or two and allowing Board members to interact face-to-face with their peers from other Boards. Dr. Hafner requested Mr. Leach speak to the FSMB about going back to their regional meetings.

Dr. Langland stated that he joined a web based conference sponsored by the FSMB which occurred on a weekday afternoon and he felt it was extremely good and more convenient than taking two days off.

Dr. Hafner thought the web based education would be acceptable if it were available on tape and could be viewed at anytime. Dr. Altchuler agreed that having the educational sessions available for the Board to listen to at each Board members convenience is an excellent idea. Dr. Altchuler stated that after last year's video conference, it was made available as a set of CD's afterwards. Dr. Altchuler asked if the current video presentations could be available on CD's. Dr. Thomas agreed that the FSMB Regional meetings are excellent, but that they get cancelled for lack of participation from Board members. Dr. Thomas stated that the FSMB will be contacted to see if the video educational components are available on tape so that Board members can view them at anytime.

Mr. Geller suggested that the Board may want to try to understand how public policy making apparatus works.

Mr. Rasmussen suggested that new Board members visit the Complaint Review Committee and Licensure Committee to get a sense of what the Board does. Mr. Rasmussen also suggested talking with Richard Auld, Assistant Executive Director about the legislative progress.

Dr. Johnson suggested that perhaps the Board could tack on an interactive session that could be played after the Board meeting and then the Board could dialog and absorb the material. Dr. Thomas stated that may be a way to do case studies.

Dr. Hafner felt that it would be interesting to have Board members spend a day with Board staff to see how the work flows internally.

Mr. Leach informed the Board that beginning with Kris Sanda's Public Board replacement, each new Board member will be assigned a mentor Board member. Mr. Leach felt that the New Board Member Orientation should be a full day rather than a half day. Board members agreed.

Dr. Thomas stated the Board now has several good ideas to look at and a motion is not needed.

On recommendation of the Licensure Committee, physician applicants 1 - 122 of the agenda were approved for licensure subject to the receipt of all verification documents.

On recommendation of the Licensure Committee, physician applicants 123 -125 of the agenda were approved for Emeritus registration.

On recommendation of the Acupuncture Advisory Council, acupuncturist applicants 126 - 127 of the agenda were approved for licensure subject to the receipt of all verification documents.

On recommendation of the Athletic Trainer Advisory Council, athletic trainer applicants 128 - 136 of the agenda were approved for registration subject to the receipt of all verification documents.

On recommendation of the Physician Assistant Advisory Council, physician assistant applicants 137 - 151 of the agenda were approved for registration subject to the receipt of all verification documents.

On recommendation of the Respiratory Care Practitioner Advisory Council, respiratory care practitioner applicants 152 - 172 of the agenda were approved for registration subject to the receipt of all verification documents.

Dr. Hafner asked for approval of the licensure minutes. The minutes of the December 19, 2005, meeting of the Licensure Committee were received and approved as circulated.

Dr. Hafner stated that, for information only, one of the issues that the Licensure Committee is dealing with is an increasing number of physician assistants that have been inactive for a number of years. The Licensure Committee is getting some guidance from the Physician Assistant Advisory Council but the Licensure Committee's demeanor is going to be to hold the inactive physician assistants to the same standards as physicians. Dr. Thomas asked if there was a knowledge and skills assessment for physician assistants. Dr. Hafner responded that that was one of the reasons why the Committee didn't take action on this issue. The Committee will investigate what is

available and whether or not programs like CPEP or Wisconsin will perform the same kind of assessments for physician assistants that they do for physicians.

A motion was made and passed unanimously to reappoint Peggy Miller as an acupuncturist member and reappoint Jay Greenberg, D.C., as an acupuncturist/chiropractor member to the Acupuncture Advisory Council.

A motion was made and passed unanimously to reappoint Dean Wennerberg as an athletic trainer member and reappoint Robert Johnson, MD as a physician member and reappoint Jason Eggers as a chiropractor member and reappoint Jean Miller as a public member to the Athletic Trainer's Advisory Council.

A motion was made and passed unanimously to appoint Beth Prater as a public member to the Physician Assistant Advisory Council. A motion was made and passed unanimously to reappoint Robert Bendickson and Paula Rooney as physician assistant members and reappoint Benedict Haeg, MD as a physician member to the Physician Assistant Advisory Council.

A motion was made and passed unanimously to reappoint Lisa Hamel as a respiratory care practitioner member and reappoint Paul Hamann, MD, as a physician member to the Respiratory Care Practitioner Advisory Council.

A motion was made and passed unanimously to appoint Alyssa Folin as a traditional midwife member to the Traditional Midwifery Advisory Council. A motion was made and passed unanimously to reappoint Ruth Fairchild as a public member to the Licensed Traditional Midwifery Advisory Council.

Mr. Leach informed the Board that Dr. Janette Strathy did not reapply for the physician seat on the Licensed Traditional Midwifery Advisory Council but will continue to serve until the new appointment is made. Mr. Leach asked Ms. Jeanne Hoffmann, Licensure Supervisor, if there were any applicants for the physician seat on the Licensed Traditional Midwifery Advisory Council. Ms. Hoffmann replied that there are two applicants and the Licensure Committee will make its decision at their February Licensure meeting for the recommendation.

Dr. Thomas stated that Ernest Lampe, II, MD, Member of the Public Policy Committee, will present the Public Policy minutes because Kris Sanda, Chair of the Public Policy Committee is not in attendance.

Dr. Lampe stated that the first issue that was covered was the presentation by the Board of Nursing addressing the issue of whether doctoral level advanced practice nurses should, to some extent, be under the jurisdiction of the Board of Medical Practice. After considerable discussion at the Public Policy Meeting, the Committee voted unanimously to recommend that the Board maintain its historically consistent neutral position on this issue.

The second item was a Health Professionals Service Program (HPSP) presentation. Monica Feider, HPSP Program Manager, reported that HPSP is going to allocate one more staff position in this year's budget request. The Board of Medical Practice's plan

to fund another staff person for HPSP would be put on hold until HPSP finds out whether that budget addition would be approved. After some discussion at the Public Policy meeting, the Committee voted unanimously to allow the budget process to go forward and to revisit the issue of the Board of Medical Practice supplying additional funding only in the event that this change item does not survive the budget process as it progresses through the legislature.

The third issue that the Public Policy Committee addressed was about listing of Board certification for the Professional Profile. This was discussed at length at the Public Policy Committee meeting. The Profile Taskforce recommendation was to list only the ABMS and ABOS certification in the Professional Profile. The Committee decided to continue to follow this recommendation but to add the following language to the Profile: "The "Minnesota's Physician Profile contains specialty certifications only from the American Board of Medical Specialties (link to the ABMS website), and the American Board of Osteopathic Medical Specialties (link to the ABOS website), because they are universally recognized and easily verifiable. Other organizations certify and endorse specialization with their own standards and procedures. You may wish to ask your physician about such certifications if he or she does not list one of the specialties from the ABMS or ABOS." Mr. Leach added that the Profiling Taskforce will be reconvened and will revisit this issue.

The fourth item on the Public Policy Committee agenda was the proposed credentialing legislation for naturopaths. The question that the Public Policy addressed was issues in the legislation affecting how the Minnesota Board of Medical Practice would administer this certification or licensing. The naturopaths were going to continue to work on their legislation. Dr. Lampe felt the Public Policy Committee did receive appropriate input on issues about how the Board would regulate them.

Mr. Leach gave an overview of the Council of Health Boards and its role in reviewing legislation regarding new credentialing for health professions and scope of practice issues. The authority of the Council of Health Boards is recommendation to the legislature only.

Dr. Johnson stated his objection to the Public Policy Committee's recommendation that the Board remain neutral on the position of jurisdiction over the profession of advanced practice nurses.

Ms. Johnson asked if the Board has a bill and was it discussed at the Public Policy Committee or is there any update?

Mr. Auld stated that the Board has a housekeeping bill. The housekeeping bill is simply to extend the life of four of the Board's five advisory councils and the Advisory Committee for HPSP.

Motion to accept the Public Policy Committee Minutes with a notation that Dr. Johnson registered an objection passed.

Mr. Leach presented the Executive Director's Report. Mr. Leach stated that at the November 11, 2006, Board meeting, the Board had a discussion regarding a couple of

proposed resolutions to the FSMB which were submitted by Dr. Hafner and those resolutions were tabled until the Federation staff were contacted to clarify some questions.

In response to one of those resolutions, Lisa Robin, Vice President of Government Relations Policy and Education at the Federation of State Medical Boards assured Mr. Leach that every resolution which is submitted by a Member Board to the House of Delegates is eventually heard by the House of Delegates. Dr. Hafner stated that she withdraws her previous resolution that spoke to that issue.

Mr. Leach stated that the other issue was the difficulty some Board members had in accessing the FSMB's Member Support Services, Member's Only Site. Mr. Leach spoke with Linda Jordan, Librarian at the FSMB and she assured Mr. Leach that anyone who fills out the on-line form on the website will receive the current password to access the Member's Only Site within about two hours, if it's not on a weekend or holiday or some delay due to illness or technical failure. Ms. Jordan said that any Board member who is having difficulty filling out the form and obtaining a password can call her. Mr. Leach was informed that the FSMB has now gone to issuing new passwords every six months. Ms. Jordan said that there is really nothing on the FSMB site that constitutes confidential or private data and Ms. Jordan informed Mr. Leach that she doesn't have a problem with Board members going off the Board and still signing up to obtain the password to access FSMB information. Dr. Hafner withdrew this resolution.

Mr. Leach informed Board members that the annual meeting of the Federation of State Medical Boards will be held May 3-5, 2007, in San Francisco, California at the Hyatt Regency Hotel and instructed the Board on the reservation procedures.

Dr. Hafner asked the Board to continue to support the Women's Networking Meeting. Dr. Hafner stated the fiscal note is approximately \$300.00. Dr. Hafner stated that this is something the Minnesota Board of Medical Practice was instrumental in starting about five years ago. It continues to grow every year and has been a positive force for increasing and supporting the number of women Board members seeking Board office at the FSMB. The Board voted unanimously to support and finance the meeting of the Women's Networking Meeting that will be held at the Federation of State Medical Boards' Annual Meeting in May 2007.

A motion was made and passed unanimously to accept the following Board member appointments to Board Committees with a note from Mr. Leach that Ms. Sanda will continue to serve as Chair of the Public Policy Committee until she goes off the Board and then Dr. Altchuler will take over as Chair.

### Complaint Review Committees

A.

Linda Van Etta, MD, Chair  
James Mona, DO  
Kelli Johnson

B.

Carl Smith, MD Chair  
Alfred Anderson, DC, MD  
Allen Rasmussen

### Licensure Committee

Rebecca Hafner, MD, MBA, Chair  
Robert Brown, Ph.D.  
Brad Johnson, MD  
Ernest Lampe, MD  
Gregory Snyder, MD

### Public Policy Committee

Steven Altchuler, Ph.D., MD, Chair  
Jack Geller, Ph.D.  
James Langland, MD  
Kris Sanda or Replacement

The Board was informed of a Corrective Action Agreement entered since the last Board meeting.

Mr. Leach informed the Board that he received correspondence from a patient of a physician who was placed under Board Order. The patient subsequently became the physician's spouse. The patient is arguing that the information contained in the public Board Order on the licensee contains medical and personal information that identifies her to the public and she objects to the fact that the physician's Order on the internet has created a hardship for her. She requests that the Board remove the Stipulation and Order regarding this particular physician from the website due to nature of the information relating to her which is contained in the Order.

Mr. Gunn stated that there is no statute that sets forth exactly what should be on the website.

Dr. Altchuler stated that this case raises a question whether the Board needs to redo the Tennessean Warning in any way. Dr. Altchuler stated that when people stipulated to these Orders, they knew they were going to be public. What was public three years ago is different than what is public now. Dr. Altchuler felt that the main issue that the Board has is that the public needs this information; it is the Board's obligation to make this information available for the public. Dr. Altchuler stated that the other side of the tension is that people agreed to these under one set of ground rules, their attorneys

agreed to them under the same ground rules, and the Board is now changing the ground rules.

Dr. Johnson stated the issue to him is the Board providing the minimal necessary information to satisfy the Board's obligation. Dr. Johnson asked would it not satisfy the Board's obligation to instead of providing a copy of the Order, could the Board not provide a summary which stated which Medical Practice Act clause was violated, what the remedy was and the duration and satisfy the Board's obligation by providing essentially minimum necessary information.

Dr. Hafner felt it would be in the best interest of the Board to gather more information in the area of law and ethics surrounding how the Board posts information on the web. Dr. Hafner stated she did have some concerns because she felt that if the Board does it for this particular case, then the Board runs the risk of having a flood of other physicians who have public Orders coming to the Board with a variety of reasons why the Board should also make their orders non-public. Dr. Hafner felt that there is both a policy issue as well as this particular issue.

Dr. Johnson stated he'd like to propose a motion that a format for a summary be developed and brought back to the Board. The summary would be under disciplinary action on the web site. The actual document would still be a public document. Motion was seconded.

Dr. Thomas called for discussion on the proposed motion.

Dr. Altchuler stated he is speaking against the motion. Dr. Altchuler felt that this is not an ideal setting to decide what to do. Dr. Altchuler stated he will vote against the motion. Dr. Altchuler stated that he felt the concept of further education for this Board about the legal/ethical policy issue are important.

Dr. Langland stated he is against the motion for two reasons. One it seems that it would take an incredible amount of staff time to summarize all the Orders to put on the web. The second reason is that these are public documents and people signed and agreed to them. Dr. Langland felt the way the Orders are handled now is okay.

Mr. Geller stated that he likes the idea of some kind of summary but that he will also vote against the motion at this point in time because he does not want to design a solution before the Board can fully analyze the extent of the problem and the issue. Mr. Geller felt that more discussion is probably warranted. Mr. Geller stated that the within the last 60 days something was sent to all of the Board members stating how bad the Board was at putting things out publicly by some researcher who was looking at websites all over the country. Mr. Geller stated that obviously the Board's website was not launched to that extent at that point in time. Mr. Geller stated that there may be a rich body of examples out there from all other states that might be able to give the Board a clearer path as to what the normative boundaries of this solution are.

Mr. Leach stated that in communications that he has had with this individual, his understanding is that, if the Board fails to do anything at this time, this matter will probably end up in a court of law. Mr. Leach actually sees this as a good forum to



resolve this issue for the Board. Let the court tell the Board if the Board has a right or obligation to make these documents public in an easily accessible manner despite the fact that sometimes individuals besides the licensee are going to be involved.

Dr. Johnson stated that he'd like to point out that he made the motion for exactly this discussion and that he doesn't want to withdraw the motion. Dr. Johnson wanted to make clear that he did not make this motion to address this particular circumstance. Dr. Johnson requested that Dr. Thomas call the question.

Dr. Thomas stated that the motion before the Board requests that Board staff summarize the Stipulation and Order for publication on the internet. Dr. Johnson voted yes. All other opposed the motion. Motion failed.

Dr. Hafner moved that the Board not withdraw the Stipulation and Order from the Professional Profile public site.

Mr. Geller suggested a friendly amendment to move this to the Public Policy Committee. Dr. Hafner accepted the friendly amendment.

The motion that the Board will not address this issue specifically dealing with this individual case, let the Stipulation and Order stand, and that the Board will refer this matter to Public Policy Committee for further consideration. Motion passed unanimously.

End of Public Session.

## **EXECUTIVE SESSION**

All Board members voting concurred in the following decisions, unless otherwise indicated.

The following Board members were present for both Public and Executive Sessions, unless otherwise indicated: Jon Thomas, M.D, MBA, President, Carl Smith, M.D., Vice President, Steven Altchuler, Ph.D., M.D., Alfred Anderson, M.D., D.C., Robert Brown, Ph.D., Jack Geller, Ph.D., Rebecca Hafner, M.D. MBA, Bradley Johnson, M.D., Kelli Johnson, Ernest Lampe, II, M.D., James Langland, M.D., James Mona, D.O., Allen Rasmussen,

### **ROBERT ABY, MD**

On recommendation of the Complaint Review Committee, the Stipulation and Order for reprimand and restricted license was signed by Dr. Aby.


### **NANCY KERMATH, MD**

On recommendation of the Complaint Review Committee, the Stipulation and Order for restricted license signed by Dr. Kermath was approved.

### **JOHN PASTORIUS, MD**

On recommendation of the Complaint Review Committee, the license of Dr. Pastorius was reinstated.

There being no further business, the meeting was adjourned.

  
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Linda Van Etta, M.D.  
Secretary  
MN Board of Medical Practice

February 28, 2007  
Date